



NATIONAL SECURITY AGENCY  
CENTRAL SECURITY SERVICE  
FORT GEORGE G. MEADE, MARYLAND 20755

Serial:   
28 July 1986

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MEMORANDUM FOR DEPUTY DIRECTOR FOR LEGISLATION, OFFICE OF  
CONGRESSIONAL AFFAIRS, CENTRAL INTELLIGENCE AGENCY

SUBJECT: Draft Intelligence Community Legislative Program  
for First Session of the One-Hundredth Congress

REFERENCE: Your Memorandum, Same Subject, Dated 27 June 1986  
(OCA 86-2199)

1. We have reviewed the draft Intelligence Community Legislative Program forwarded per reference and concur in its submission for appropriate approval, subject to the comments noted in paragraph 3. With respect to Legislative Proposal 100/1-2, Protection of Intelligence Information, we suggest that the proposal provide criminal and civil penalties for the unauthorized disclosure of classified information.

2. We request that you add the following four items for inclusion in the draft program:

a. Director, NSA, Authority

An amendment to the NSA Act of 1959 (50 U.S.C. § 402 note) to authorize the Director, NSA, to expend sums available to the Agency without regard to the provisions of law and regulations relating to the expenditure of Government funds to protect the security and effectiveness of the Agency's uniquely sensitive and important mission.

During the past few years, this Agency has encountered numerous situations in which the constraints of statutes and regulations which apply to NSA have inhibited NSA operations resulting in missed intelligence opportunities, less than totally satisfactory security practices, and inequitable treatment of NSA personnel. As the Legislative Program works its way through the approval process, we will provide examples and detailed justification to demonstrate the urgent need for this provision.

b. Foreign Cryptography Control

An amendment to Title 10 to provide the Secretary of Defense and the Director, NSA, with the statutory authority to prevent the introduction of foreign manufactured cryptography into the U.S. Government and government-contractor inventory and

to bar foreign-owned, controlled, or influenced companies from accessing U.S. Government cryptography. (CIA has already approved a draft of such legislation.)

c. Tax Exemption of Allowances Paid to Certain NSA Employees

An amendment to Section 912(1) of the Internal Revenue Code to exempt from taxation allowances provided to certain NSA personnel under Section 9(b) of the NSA Act of 1959 (50 U.S.C. § 402 note). The same allowances provided to Foreign Service members and CIA personnel are currently exempted from taxation under Section 912(1). This proposal was part of NSA's Legislative Program and recently cleared OMB and was sent to Congress. The Intelligence Authorization Act may be an appropriate vehicle for enacting this legislation.

d. Retroactive Pay for Certain NSA Employees

An amendment to the NSA Act of 1959 (50 U.S.C. § 402 note) to allow the Director, NSA, to pay certain senior NSA employees additional pay they may have been entitled to during fiscal years 1980 and 1981 that was authorized for SES personnel under a 1984 Seventh Circuit decision (Squillacote v. U.S., 739 F.2d 1208 (7th Cir. 1984), cert. denied, 105 S.C. 2021 (1985)).

3. The above represents only the views of the Office of General Counsel, NSA, because, in the face of the urgent time constraints which you described in reference, we have not been able to obtain the formal approval of the Director, NSA, nor the chiefs of the key NSA components. This office will now begin the formal coordination process within NSA. We will keep you advised of any changes or additions to the above as the views of the Director, NSA, and our other senior Agency clients become known.

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Legislative and Regulatory Counsel